

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**WETRO LAN LLC,**

**Plaintiff,**

**v.**

**ENGENIUS TECHNOLOGIES, INC.,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CASE NO. 2:15-cv-54**

**DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES**

Defendant EnGenius Technologies, Inc. (“Defendant” or “EnGenius”) through its undersigned counsel, for its Answer and Affirmative Defenses to the Complaint of Wetrolan LLC (“Plaintiff” or “Wetrolan”), states as follows:

**NATURE OF THE ACTION**

1. In response to Paragraph 1 of the Complaint, EnGenius admits that this is an action for patent infringement. EnGenius admits that the face of U.S. Patent No. 6,795,918 (“the ’918 patent”) recites the patent title as alleged by Plaintiff and that a copy of the ’918 patent is attached as Exhibit A to the Complaint. EnGenius otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1, and therefore, denies the same.

**PARTIES**

2. EnGenius lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Complaint and, therefore, denies the same.

3. EnGenius admits the allegations of Paragraph 3 of the Complaint.

### **JURISDICTION AND VENUE**

4. In response to Paragraph 4 of the Complaint, EnGenius admits that this is an action for patent infringement arising under Title 35 of the United States Code. EnGenius admits that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. For the purposes of this action, EnGenius does not contest that this Court has personal jurisdiction over EnGenius. EnGenius otherwise denies the allegations of Paragraph 5 of the Complaint.

6. EnGenius denies the allegations of Paragraph 6 of the Complaint.

7. EnGenius denies the allegations of Paragraph 7 of the Complaint.

### **INFRINGEMENT OF U.S. PATENT NO. 7,110,744**

8. No response is necessary to Paragraph 8 of the Complaint.

9. In response to the allegations of Paragraph 9 of the Complaint, EnGenius admits that the face of the '918 patent recites the issue date of September 21, 2004. EnGenius otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9, and therefore, denies the same.

10. EnGenius denies the allegations of Paragraph 10 of the Complaint.

11. EnGenius denies the allegations of Paragraph 11 of the Complaint.

12. EnGenius denies that any of its activities constitute infringement of the '918 patent without authority or license from Plaintiff.

13. Paragraph 13 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, EnGenius states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13, and therefore, denies the same.

14. Paragraph 14 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, EnGenius states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14, and therefore, denies the same.

### **AFFIRMATIVE DEFENSES**

Without admitting or acknowledging that it bears the burden of proof as to any of them, EnGenius asserts the following affirmative defenses.

#### **First Affirmative Defense – Invalidity**

1. The asserted claims of the '918 patent are invalid for failure to comply with one or more of the requirements of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and 112.

#### **Second Affirmative Defense – Laches**

2. Plaintiff's claims of infringement and/or claims for relief against EnGenius regarding the '918 patent are barred in whole or in part by the doctrine of laches.

#### **Third Affirmative Defense – Limitation on Damages**

3. Plaintiff's claims of infringement and/or claims for relief against EnGenius are barred in whole or in part under 35 U.S.C. § 286, § 287, and the expiration of the '918 patent.

#### **Fourth Affirmative Defense – Waiver, Estoppel, Acquiescence**

4. Plaintiff's claims of infringement against EnGenius regarding the '918 Patent are barred and the patent is unenforceable against EnGenius due to the doctrines of waiver, estoppel, and/or acquiescence.

**Other Defenses Reserved**

5. EnGenius reserves all affirmative defenses available under Rule 8(c) of the Federal Rules of Civil Procedure, and any other defenses, at law or in equity, that may be available now or in the future based on discovery or any other factual investigation in this case, including but not limited to unenforceability due to inequitable conduct.

**PRAYER FOR RELIEF**

WHEREFORE EnGenius prays for the following relief:

- A. That this Court dismiss Plaintiff's Complaint against EnGenius with prejudice and that Plaintiff takes nothing thereby;
- B. That this Court award EnGenius all of its costs as allowed by law;
- C. That this Court find that this is an exceptional case and award EnGenius its attorneys' fees pursuant to 35 U.S.C. § 285 or otherwise; and
- D. That this Court grant EnGenius such other and further relief as the Court deems just and proper.

Dated: April 6, 2015

/s/ Melissa Richards Smith

Melissa Richards Smith  
Texas Bar No. 24001351  
melissa@gillamsmith.com  
GILLAM & SMITH LLP  
303 S. Washington Ave.  
Marshall, Texas 75670  
Telephone: (903) 934-8450  
Facsimile: (903) 934-9257

Mark Flanagan (California Bar No. 130303)  
mark.flanagan@wilmerhale.com  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
950 Page Mill Road  
Palo Alto, CA 94304  
Telephone: (650) 858-6000  
Facsimile: (650) 858-6100

/s/ David Yang

David Yang (California Bar No. 246132)  
david.yang@wilmerhale.com  
Elaine Zhong (California Bar No. 286394)  
elaine.zhong@wilmerhale.com  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
350 South Grand Ave., 21st Floor  
Los Angeles, California 90071  
Telephone: (213) 443-5300  
Facsimile: (213) 443-5400

***COUNSEL FOR DEFENDANT  
GENIUS TECHNOLOGIES, INC.***

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 6th day of April, 2015, a true and correct copy of the foregoing document was served upon all counsel of record via the Court's CM/ECF system.

/s/ Melissa R. Smith

Melissa Richards Smith